

July 18, 2012

**BY ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**RE: WC Docket No. 11-42 et al.**  
**Petition for Waiver of UTPhone, Inc.**

Dear Ms. Dortch:

The purpose of this letter is to supplement the above-referenced Petition for Waiver filed by UTPhone, Inc. on June 21, 2012, to provide additional detail regarding the robust new network facilities infrastructure with which UTPhone is serving Low Income subscribers in its service area on Tribal lands in the State of Oklahoma.

UTPhone's recently expanded network provides bundled and unbundled high speed broadband and dial tone voice service to multiple communities and rural areas that heretofore have been unserved by broadband and underserved even for basic voice service. Its current facilities are comprised of a hybrid wireless and fiber middle-mile network that currently consists of 81 towers or access points covering a 500 square mile area, all of which are located on Tribal lands. The wireless network ring configuration utilizes unlicensed ISM bands in the 2.4GHz, 5.8GHz and 900 MHz ranges as specified by IEEE 802.11 a/b/e/g/n specifications. Additionally, local distribution and backhaul is provided by the optimal configuration utilizing both unlicensed and licensed frequencies in the 5.470 to 5.850 GHz RF bands and 18 GHz and 11 GHz bands. The network is currently serving 6,000 low income subscribers on Oklahoma Tribal lands, with capacity to serve an additional 4,000 as currently configured. Hardware upgrades to the wireless backhaul links on the existing towers will allow expansion to support an additional 20,000 subscribers. Currently under construction are an additional 34 towers capable of serving more than 34,000 subscribers and increasing the geographic coverage to 700 square miles on Tribal lands. *See* Attachments 1 (Coverage Area) and 2 (Network Diagrams). This broadband network delivers dial tone voice service by using Analog Telephone Adapter (ATA) technology, which allows the subscriber to use a standard analog telephone for "POTS" phone

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service. The voice service is switched through UTPhone's Class 5 Metaswitch and interconnected with multiple networks, including AT&T, Cogent and Level 3.

This network coverage is entirely on Tribal Lands in Oklahoma, serving vast and often remote areas that are underserved by traditional and antiquated legacy copper network. The blue-bordered area in Exhibit A shows the current coverage area and tower locations for the network. The orange-bordered area shows the areas that will be covered by network expansion within the next several months; and the red-bordered area shows additional areas that will be covered upon completion of a further network build out by @Link Wireless Services, utilizing Recovery Act BIP grants, to construct broadband facilities on these rural and underserved Oklahoma lands.

UTPhone would also like to call attention to the fact that the proposed waiver to restore its eligibility for Tribal Link Up support is imperative not only to enable UTPhone to support connections to its voice and first-ever high speed broadband services on this facilities-based network to underserved low income residents of these tribal lands, where such connections remain very costly; it is also imperative as a matter of fairness and competitive equity. During our meetings, it appeared that some participants were under the impression that the recent *Lifeline Reform Order* had the effect of limiting Tribal Link Up support to one eligible provider (presumably the ILEC) in a service area. This is not the case in Tribal lands in Oklahoma: in fact, at least two wireline CLECs similarly situated to UTPhone continue to receive full Tribal Link Up support for their services in such areas, while UTPhone receives none.<sup>1</sup> The only substantive difference between these providers receiving full Tribal Link Up support and UTPhone *not* receiving that support-- absent waiver-- is that these other carriers obtained high cost ETC designation in Oklahoma before December 31, 2011<sup>2</sup> and so are eligible for ongoing Tribal Link Up because they are "receiving high cost support" under the tortured nomenclature of rules 54.413 and 54.414, while UTPhone is *precluded* by operation of another FCC rule from doing so. Indeed, UTPhone, which is actually building network infrastructure in these areas, is being denied support even as other providers that are not facilities-based continue to receive Tribal Link Up support.<sup>3</sup>

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<sup>1</sup> See USAC, Low Income disbursement Data (Oklahoma), June 2012, *available at* <http://www.usac.org/li/tools/disbursements/results.aspx> (Attachment 3 hereto).

<sup>2</sup> See *Budget Phone, Inc.*, Okla. Corp. Comm. Order No. 523502, Cause No. PUD 200500380 (Apr. 19, 2006); *Cox Oklahoma Telecom, LLC*, Okla. Corp. Comm., Order No. 464785, Cause No. PUD 200200119 (June 20, 2002).

<sup>3</sup> See *Budget Phone, Inc.*, *supra*, at p. 3.

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Accordingly, by building robust new network infrastructure to serve low income consumers in Tribal lands, thereby fulfilling the Commission's aspirations for Tribal Link Up as fervently articulated in both the recent *Lifeline Reform Order* and the *Tribal Lifeline Order*,<sup>4</sup> UTPhone not only is deserving of a waiver in this unique circumstance; plainly put, to deny this waiver would be grossly unfair, anti-competitive, and would undermine and indeed serve to defeat the Commission's oft-stated goals of increasing facilities-based service as well as broadband deployment and adoption in these most challenging of service areas and populations.

Thank you again for your consideration of these matters. Should you have any questions, please do not hesitate to contact me.

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

A handwritten signature in dark ink, appearing to read "James M. Smith", with a long horizontal flourish extending to the right.

James M. Smith  
Counsel for UTPhone, Inc.

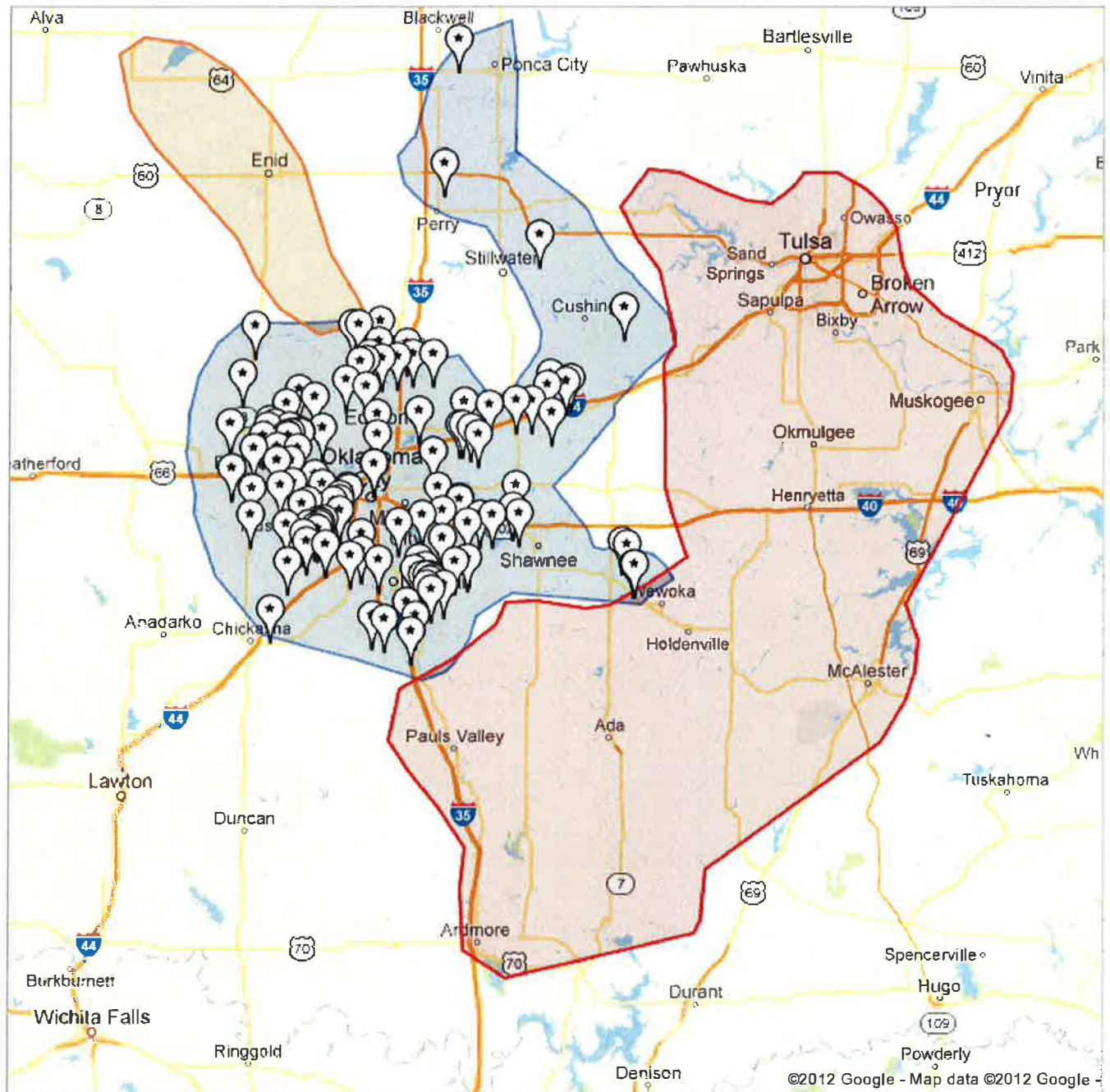
cc: Kimberly Scardino, Esq.  
Garnet Hanly, Esq.

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<sup>4</sup> *Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket Nos. 11-42 *et al.*, FCC 12-11 (rel. Feb. 6, 2012), at ¶¶ 60, 254 & nn. 655, 687, 689, 690; *Twelfth Report and Order* in CC Docket No. 96-45, 15 FCC Red 12208, 12211-12, 12221-22, 12239-40 (2000).

## **Attachment 1**

### **UTPhone Network Coverage Area**



## UTPhone Network Map






Public · 3 Collaborators · 52 views  
Created on Jul 16 · By [Samual](#) · Updated < 1 minute ago

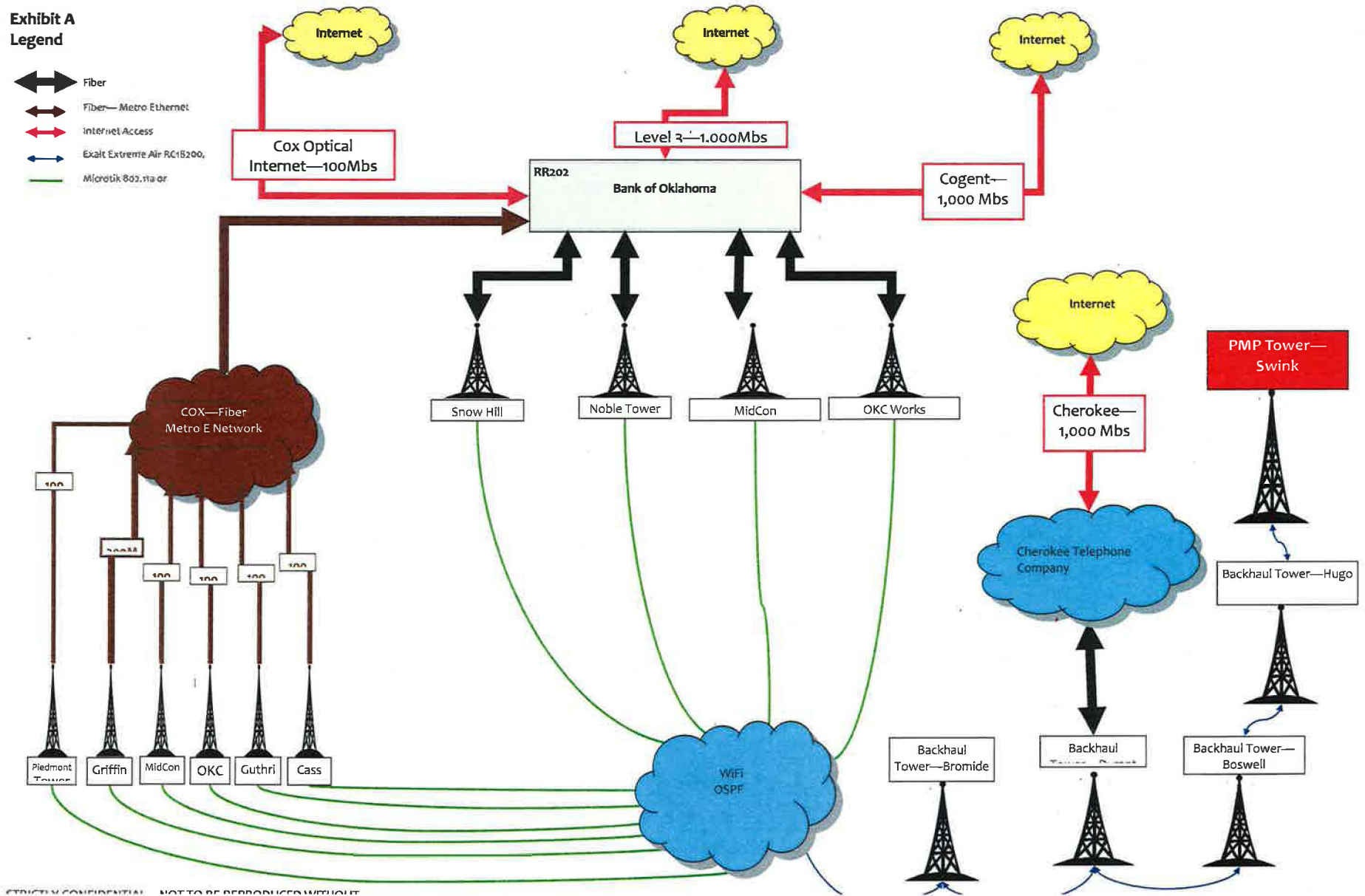
- Existing Coverage as of June 2012
  - Planned Expansion NW
  - Planned Expansion (Grant Funded Towers)
  - Active Tower Locations
- on Tribal Lands

# Attachment 2

## Network Diagrams

# Exhibit A Legend

-  Fiber
-  Fiber—Metro Ethernet
-  Internet Access
-  Exalt Extreme Air RC15200,
-  Mikrotik 802.11a or





### Legend

- Exalt Extreme Air or Xplor LR 18 or 11GHz,  
1,000Mbps Backhaul
- Microtik 802.11a, 5.8GHz, 80Mbps Backhaul
- Microtik 802.11n, 5.8GHz, 140Mbps Backhaul
- Licensed 3.65GHz, 40Mbps Backhaul

### Legend

- Exalt Extreme Air or Xplor LR 18 or 11GHz,  
1,000Mbps Backhaul
- Microtik 802.11a, 5.8GHz, 80Mbps Backhaul
- Microtik 802.11n, 5.8GHz, 140Mbps Backhaul
- Licensed 3.65GHz, 40Mbps Backhaul

### Legend

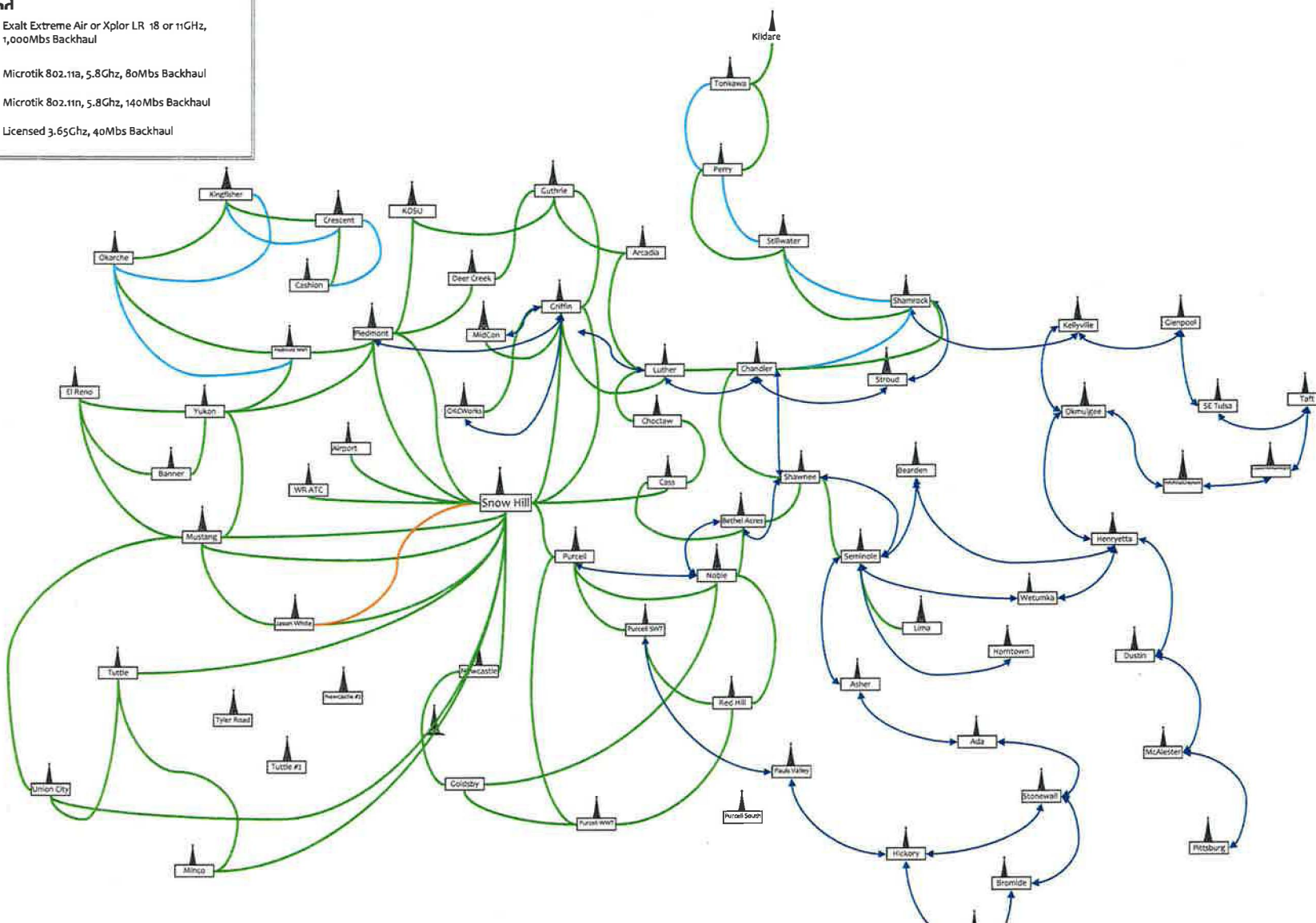
- Exalt Extreme Air or Xplor LR 18 or 11GHz,  
1,000Mbps Backhaul
- Microtik 802.11a, 5.8GHz, 80Mbps Backhaul
- Microtik 802.11n, 5.8GHz, 140Mbps Backhaul
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## Attachment 3

### USAC Low Income Disbursement Data (Oklahoma), June 2012



USAC Home | Lifeline Program | Search Tools | Funding Disbursement Search

## LOW INCOME DISBURSEMENT DATA

(Spin = ALL , Study Area Code = ALL , Study Area Name = ALL , Year = 2012 , Month = Jun , State = OK )

This disbursement tool contains data from Jan 2004 through Jun 2012.

To view how the disbursement was calculated:

1. Select the company that you would like to review (the selected company will be highlighted blue)
2. Click the left mouse button to display a drop down menu
3. To hide the data, scroll to the company (the selected company will be highlighted blue) and click the left mouse button
4. The tool will display as many or few company data as you wish

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State	SPIN	Study Area	Name	Lifeline	Linkup	TLS	TOTAL	Mo/Year
OK	143030766	431165	WINDSTREAM COMMUNICATIONS INC.	\$44,326.00	\$104.00	\$61.00	\$44,491.00	Jun/2012
	Entered	Applies	Type	Lifeline	Linkup	TLS	TOTAL	
	05-2012	04-2012	True-Up	\$556.00	(\$251.00)	(\$2.00)	\$303.00	
	05-2012	05-2012	Projection	\$43,770.00	\$355.00	\$63.00	\$44,188.00	

OK	143002263	431704	LAVACA TELEPHONE COMPANY INC.	\$2,359.00	\$69.00	\$0.00	\$2,428.00	Jun/2012
	Entered	Applies	Type	Lifeline	Linkup	TLS	TOTAL	
	05-2012	04-2012	True-Up	(\$1,135.00)	(\$19.00)	\$0.00	(\$1,154.00)	
	05-2012	05-2012	Projection	\$3,494.00	\$88.00	\$0.00	\$3,582.00	

OK	143002369	431788	KANOKLA TELEPHONE ASSOCIATION	\$262.00	\$1.00	\$0.00	\$263.00	Jun/2012
OK	143030766	431965	WINDSTREAM COMMUNICATIONS INC.	\$5,667.00	\$26.00	\$32.00	\$5,725.00	Jun/2012
OK	143002372	431966	ATLAS TELEPHONE COMPANY INC.	\$2,256.00	(\$13.00)	\$107.00	\$2,350.00	Jun/2012
OK	143002373	431968	BEGGS TELEPHONE CO. INC.	\$2,802.00	\$0.00	\$142.00	\$2,944.00	Jun/2012
OK	143002374	431969	BIXBY TELEPHONE COMPANY	\$11,402.00	\$210.00	\$0.00	\$11,612.00	Jun/2012
OK	143002375	431974	CANADIAN VALLEY TELEPHONE CO.	\$1,357.00	(\$1.00)	\$17.00	\$1,373.00	Jun/2012
OK	143002376	431976	CARNEGIE TELEPHONE COMPANY	\$2,640.00	\$5.00	\$262.00	\$2,907.00	Jun/2012
OK	143002377	431977	CENTRAL OKLAHOMA TELEPHONE CO. LLC	\$3,488.00	\$14.00	\$62.00	\$3,564.00	Jun/2012
OK	143009019	431979	CHEROKEE TELEPHONE COMPANY	\$11,408.00	\$82.00	\$770.00	\$12,260.00	Jun/2012
OK	143002379	431980	CHICKASAW TELEPHONE COMPANY	\$3,358.00	\$293.00	\$99.00	\$3,750.00	Jun/2012
OK	143002380	431981	CHOUTEAU TELEPHONE COMPANY	\$5,660.00	\$6.00	\$41.00	\$5,707.00	Jun/2012
OK	143002381	431982	CIMARRON TELEPHONE COMPANY	\$18,559.00	\$98.00	\$0.00	\$18,657.00	Jun/2012
OK	143002382	431984	OKLAHOMA COMMUNICATION SYSTEMS INC. DBA TDS	\$17,489.00	(\$7.00)	\$0.00	\$17,482.00	Jun/2012
OK	143002383	431985	CROSS TELEPHONE COMPANY LLC	\$24,653.00	\$393.00	\$1,621.00	\$26,667.00	Jun/2012
OK	143002384	431988	DOBSON TELEPHONE COMPANY	\$1,017.00	\$2.00	\$20.00	\$1,039.00	Jun/2012
OK	143002385	431994	GRAND TELEPHONE COMPANY INC.	\$5,573.00	\$27.00	\$58.00	\$5,658.00	Jun/2012
OK	143002386	431995	THE HINTON TELEPHONE CO. INC.	\$3,728.00	\$39.00	\$60.00	\$3,827.00	Jun/2012
OK	143002387	432006	MICLOUD TELEPHONE COMPANY	\$9,647.00	\$64.00	\$220.00	\$9,931.00	Jun/2012
OK	143002388	432008	MEDICINE PARK TEL. CO.	\$192.00	\$0.00	\$9.00	\$201.00	Jun/2012
OK	143002389	432010	MID-AMERICAN TELEPHONE INC.	\$2,004.00	(\$2.00)	\$0.00	\$2,002.00	Jun/2012
OK	143030766	432011	WINDSTREAM COMMUNICATIONS INC.	\$13,889.00	\$54.00	\$66.00	\$14,009.00	Jun/2012
OK	143002391	432013	OKLAHOMA TELEPHONE AND TELEGRAPH INC.	\$8,742.00	\$0.00	\$0.00	\$8,742.00	Jun/2012
OK	143002392	432014	OKLAHOMA WESTERN TELEPHONE COMPANY	\$10,712.00	\$87.00	\$0.00	\$10,799.00	Jun/2012
OK	143002393	432016	PANHANDLE TELEPHONE COOPERATIVE INC.	\$1,245.00	\$0.00	\$0.00	\$1,245.00	Jun/2012
OK	143002394	432017	PINE TELEPHONE CO. INC.	\$17,416.00	\$65.00	\$0.00	\$17,481.00	Jun/2012
OK	143002395	432018	PIONEER TELEPHONE COOP INC.	\$69,327.00	\$479.00	\$3,740.00	\$73,546.00	Jun/2012
OK	143002396	432020	POTTAWATOMIE TELEPHONE COMPANY	\$5,705.00	\$70.00	\$0.00	\$5,775.00	Jun/2012
OK	143002397	432022	SALINA-SPAVINAW TELEPHONE CO. INC.	\$20,467.00	\$368.00	\$0.00	\$20,835.00	Jun/2012
OK	143002398	432023	SHIDLER TELEPHONE COMPANY	\$2,222.00	\$1.00	\$0.00	\$2,223.00	Jun/2012
OK	143002399	432025	SOUTHWEST OKLAHOMA TELEPHONE CO. INC.	\$33.00	\$0.00	\$0.00	\$33.00	Jun/2012
OK	143002400	432029	TERRAL TELEPHONE COMPANY	\$676.00	(\$3.00)	\$0.00	\$673.00	Jun/2012
OK	143002401	432030	TOTAH COMMUNICATIONS INC	\$946.00	\$0.00	\$22.00	\$968.00	Jun/2012
OK	143002402	432032	VALLANT TELEPHONE COMPANY	\$4,568.00	\$25.00	\$0.00	\$4,593.00	Jun/2012
OK	143002403	432034	WYANDOTTE TELEPHONE COMPANY	\$1,383.00	\$1.00	\$0.00	\$1,384.00	Jun/2012
OK	143002405	432141	SANTA ROSA TELEPHONE COOPERATIVE INC.	\$552.00	(\$1.00)	\$0.00	\$551.00	Jun/2012

<input type="checkbox"/>	OK	143004662	435215	SOUTHWESTERN BELL TELEPHONE COMPANY	\$777,467.00	\$2,236.00	\$33.00	\$779,736.00	Jun/2012
	Entered	Applies	Type	Lifeline	Linkup	TLS	TOTAL		
	05-2012	04-2011	True-Up	\$0.00	(\$428.00)	\$0.00	(\$428.00)		
	05-2012	04-2012	True-Up	(\$1,809.00)	\$1,259.00	(\$11.00)	(\$561.00)		
	05-2012	05-2012	Projection	\$779,276.00	\$1,405.00	\$44.00	\$780,725.00		
<input type="checkbox"/>	OK	143016724	439002	SAGE TELECOM INC.	\$398.00	(\$1.00)	\$0.00	\$397.00	Jun/2012
<input type="checkbox"/>	OK	143005575	439003	COX OKLAHOMA TELCOM LLC	\$900,722.00	(\$90.00)	\$0.00	\$900,632.00	Jun/2012
	Entered	Applies	Type	Lifeline	Linkup	TLS	TOTAL		
	05-2012	04-2012	True-Up	\$9,205.00	(\$3,151.00)	\$0.00	\$6,054.00		
	05-2012	05-2012	Projection	\$891,517.00	\$3,061.00	\$0.00	\$894,578.00		
<input type="checkbox"/>	OK	143000667	439004	YAKIMA MSA LIMITED PARTNERSHIP	\$7,377.00	(\$4.00)	\$0.00	\$7,373.00	Jun/2012
<input type="checkbox"/>	OK	143026875	439006	YOURTEL AMERICA INC.	\$445,216.00	\$0.00	\$32,946.00	\$478,162.00	Jun/2012
<input type="checkbox"/>	OK	143028661	439009	TERRACOM INC.	\$1,558,011.00	\$0.00	\$80,876.00	\$1,638,887.00	Jun/2012
<input type="checkbox"/>	OK	143028566	439011	EPIC TOUCH LLC	\$25.00	\$0.00	\$0.00	\$25.00	Jun/2012
<input type="checkbox"/>	OK	143006198	439012	PINE CELLULAR PHONES	\$162,920.00	\$9,348.00	\$0.00	\$172,268.00	Jun/2012
<input type="checkbox"/>	OK	143012168	439013	CELLULAR NETWORK PARTNERSHIP	\$62.00	\$0.00	\$0.00	\$62.00	Jun/2012
<input type="checkbox"/>	OK	143028902	439014	THE TELEPHONE COMPANY INC.	\$137,955.00	(\$7,294.00)	\$1,488.00	\$132,149.00	Jun/2012
<input type="checkbox"/>	OK	143030228	439015	CENTRAL CELLULAR LLC	\$1,127.00	\$0.00	\$31.00	\$1,158.00	Jun/2012
<input type="checkbox"/>	OK	143000887	439016	BUDGET PREPAY INC.	\$163,070.00	\$19,901.00	\$7,357.00	\$190,328.00	Jun/2012
	Entered	Applies	Type	Lifeline	Linkup	TLS	TOTAL		
	05-2012	04-2012	True-Up	\$2,916.00	\$3,083.00	\$219.00	\$6,218.00		
	05-2012	05-2012	Projection Override	\$160,154.00	\$16,818.00	\$7,138.00	\$184,110.00		
<input type="checkbox"/>	OK	143030516	439017	CROSS WIRELESS	\$51,567.00	\$4,655.00	\$0.00	\$56,222.00	Jun/2012
<input type="checkbox"/>	OK	143030542	439018	NEXUS COMMUNICATIONS INC.	\$5,514.00	\$0.00	\$1.00	\$5,515.00	Jun/2012
<input type="checkbox"/>	OK	143031494	439019	CROSS VALLIANT CELLULAR PARTNERSHIP	\$37,461.00	\$2,158.00	\$0.00	\$39,619.00	Jun/2012
<input type="checkbox"/>	OK	143030828	439021	UTPHONE	\$792,648.00	\$0.00	\$70,770.00	\$863,418.00	Jun/2012
<input type="checkbox"/>	OK	143002392	439024	OKLAHOMA WESTERN TELEPHONE COMPANY	\$24,999.00	\$924.00	\$0.00	\$25,923.00	Jun/2012
<input type="checkbox"/>	OK	143031484	439025	BTC BROADBAND	\$287.00	\$0.00	\$0.00	\$287.00	Jun/2012
<input type="checkbox"/>	OK	143033015	439026	OKLAHOMA 5 LLC	\$4,349.00	\$0.00	\$0.00	\$4,349.00	Jun/2012
<input type="checkbox"/>	OK	143033415	439028	HEAD START TELECOM INC	\$220,494.00	\$2,400.00	\$4,380.00	\$227,274.00	Jun/2012
<input type="checkbox"/>	OK	143032385	439029	DPI TELECONNECT LLC	\$103,274.00	(\$11,890.00)	\$9,453.00	\$100,837.00	Jun/2012
<input type="checkbox"/>	OK	143033582	439033	TELOPS INTERNATIONAL INC	\$408,010.00	\$0.00	\$19,056.00	\$428,066.00	Jun/2012
<input type="checkbox"/>	OK	143034230	439038	TRUE WIRELESS LLC	\$3,890,492.00	\$0.00	\$0.00	\$3,890,492.00	Jun/2012
<input type="checkbox"/>	OK	143028902	439040	THE TELEPHONE COMPANY INC.	\$285,669.00	\$25,700.00	\$0.00	\$311,369.00	Jun/2012
<input type="checkbox"/>	OK	143034586	439041	ICON TELECOM INC	\$1,841,657.00	\$0.00	\$0.00	\$1,841,657.00	Jun/2012
<input type="checkbox"/>	OK	143026875	439042	YOURTEL AMERICA INC.	\$719,456.00	\$0.00	\$0.00	\$719,456.00	Jun/2012
<input type="checkbox"/>	OK	143028661	439043	TERRACOM INC.	\$2,445,137.00	\$0.00	\$0.00	\$2,445,137.00	Jun/2012
<input type="checkbox"/>	OK	143033415	439044	HEAD START TELECOM INC	\$26,856.00	\$0.00	\$0.00	\$26,856.00	Jun/2012
<input type="checkbox"/>	OK	143035824	439045	SAFE TEL LLC	\$135,562.00	\$0.00	\$0.00	\$135,562.00	Jun/2012
<input type="checkbox"/>	OK	143035352	439046	ASSIST WIRELESS LLC	\$2,333,012.00	\$0.00	\$0.00	\$2,333,012.00	Jun/2012
<input type="checkbox"/>	OK	143034376	439047	EASY TELEPHONE SERVICES	\$727,704.00	\$0.00	\$0.00	\$727,704.00	Jun/2012
<input type="checkbox"/>	OK	143036122	439048	FIDELITY CABLEVISION INC	\$8,953.00	\$0.00	\$0.00	\$8,953.00	Jun/2012

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**Key****Entered:** The month/year the data was entered by USAC into its Low Income database**Applies:** The "Data Month"—Line 4b on FCC Form 497**Type:** Projection, True-up or Projection Override**Projection:** The amount of support the Low Income system determines a company will need for the month, based on historical support claims**True-up:** The difference between the projection and the amount the company claimed on FCC Form 497 for prior months (this can be one month or multiple months)**Projection override:** In some cases, USAC will manually adjust the projection for new companies to prevent a large true-up in the future**SUBMIT**Forms  
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